

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 133

FINAL READING

Introduced by Holdcroft, 36.

Read first time January 13, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 28-1008, 28-1012, 28-1012.01, and 28-1019, Revised Statutes
3 Cumulative Supplement, 2024; to define a term; to provide powers,
4 duties, and immunity to animal control officers; to change
5 provisions relating to seizure of certain animals; to harmonize
6 provisions; to repeal the original sections; and to declare an
7 emergency.
8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-1008, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 28-1008 For purposes of sections 28-1008 to 28-1017, 28-1019, and
4 28-1020:

5 (1) Abandon means to leave any animal in one's care, whether as
6 owner or custodian, for any length of time without making effective
7 provision for its food, water, or other care as is reasonably necessary
8 for the animal's health;

9 (2) Animal means any vertebrate member of the animal kingdom. Animal
10 does not include an uncaptured wild creature or a livestock animal as
11 defined in section 54-902;

12 (3) Animal control officer means a person authorized by a city,
13 village, or county to enforce any state or local animal control law,
14 rule, regulation, resolution, or ordinance concerning animal welfare;

15 (4) (3) Cruelly mistreat means to knowingly and intentionally kill,
16 maim, disfigure, torture, beat, kick, hit, strike in any manner,
17 mutilate, burn, scald, or otherwise inflict harm upon any animal;

18 (5) (4) Cruelly neglect means to fail to provide any animal in one's
19 care, whether as owner or custodian, with food, water, or other care as
20 is reasonably necessary for the animal's health;

21 (6) (5) Humane killing means the destruction of an animal by a
22 method which causes the animal a minimum of pain and suffering;

23 (7) (6) Law enforcement officer means any member of the Nebraska
24 State Patrol, any county or deputy sheriff, any member of the police
25 force of any city or village, or any other public official authorized by
26 a city or village to enforce state or local animal control laws, rules,
27 regulations, or ordinances. Law enforcement officer also includes a
28 special investigator appointed as a deputy state sheriff as authorized
29 pursuant to section 81-201 while acting within the authority of the
30 Director of Agriculture under the Commercial Dog and Cat Operator
31 Inspection Act;

1 (8) ~~(7)~~ Mutilation means intentionally causing permanent injury,
2 disfigurement, degradation of function, incapacitation, or imperfection
3 to an animal. Mutilation does not include conduct performed by a
4 veterinarian licensed to practice veterinary medicine and surgery in this
5 state or conduct that conforms to accepted veterinary practices;

6 (9) ~~(8)~~ Owner or custodian means any person owning, keeping,
7 possessing, harboring, or knowingly permitting an animal to remain on or
8 about any premises owned or occupied by such person;

9 (10) ~~(9)~~ Police animal means a horse or dog owned or controlled by
10 the State of Nebraska or any county, city, or village for the purpose of
11 assisting a law enforcement officer in the performance of his or her
12 official enforcement duties;

13 (11) ~~(10)~~ Repeated beating means intentional successive strikes to
14 an animal by a person resulting in serious injury or illness or death to
15 the animal;

16 (12) ~~(11)~~ Serious injury or illness includes any injury or illness
17 to any animal which creates a substantial risk of death or which causes
18 broken bones, prolonged impairment of health, or prolonged loss or
19 impairment of the function of any bodily organ; and

20 (13) ~~(12)~~ Torture means intentionally subjecting an animal to
21 extreme pain, suffering, or agony. Torture does not include conduct
22 performed by a veterinarian licensed to practice veterinary medicine and
23 surgery in this state or conduct that conforms to accepted veterinary
24 practices.

25 **Sec. 2.** Section 28-1012, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 28-1012 (1) Any A law enforcement officer or animal control officer
28 who has reason to believe that an animal has been abandoned or is being
29 cruelly neglected or cruelly mistreated may seek a warrant authorizing
30 entry by a law enforcement officer or an animal control officer who is
31 accompanied by a law enforcement officer upon private property to

1 inspect, care for, or impound the animal.

2 (2) It shall be the duty of any a law enforcement officer or animal
3 control officer who has reason to believe that an animal has been
4 abandoned or is being cruelly neglected or cruelly mistreated to make
5 prompt investigation of such violation. Any A law enforcement officer or
6 animal control officer may, in lieu of making an arrest, issue a citation
7 to the owner or custodian as prescribed in sections 29-422 to 29-429.

8 (3) Any equipment, device, or other property or things involved in a
9 violation of section 28-1009 or 28-1010 shall be subject to seizure, and
10 distribution or disposition may be made in such manner as the court may
11 direct. Any animal involved in a violation of section 28-1009 or 28-1010
12 shall be subject to seizure. Distribution or disposition shall be made
13 under section 28-1012.01 as the court may direct.

14 (4) Any law enforcement officer or animal control officer acting
15 under this section shall not be liable for damage to property if such
16 damage is not the result of the law enforcement officer's or animal
17 control officer's negligence.

18 **Sec. 3.** Section 28-1012.01, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 28-1012.01 (1) Any animal seized under a search warrant or validly
21 seized without a warrant may be kept on the property of the owner or
22 custodian by the law enforcement officer or animal control officer
23 seizing the animal. When a criminal complaint has been filed in
24 connection with a seized animal, the court in which such complaint was
25 filed shall have exclusive jurisdiction for disposition of the animal and
26 to determine any rights therein, including questions respecting the
27 title, possession, control, and disposition thereof as provided in this
28 section.

29 (2) Within ten business days after the date an animal has been
30 seized pursuant to section 28-1006 or 28-1012, the county attorney of the
31 county where the animal was seized shall file an application with the

1 court having appropriate jurisdiction for a hearing to determine the
2 disposition and the cost for the care of the animal. Notice of such
3 hearing shall be given to the owner or custodian from whom such animal
4 was seized and to any holder of a lien or security interest of record in
5 such animal specifying the date, time, and place of such hearing. Such
6 notice shall be served by personal or residential service or by certified
7 mail. If such notice cannot be served by such methods, service may be
8 made by publication in the county where such animal was seized. Such
9 publication shall be made after application and order of the court. The
10 hearing shall be held as soon as practicable and not more than ten
11 business days after the date of application for the hearing unless
12 otherwise determined and ordered by the court.

13 (3) If the court finds that probable cause exists that an animal has
14 been abandoned or cruelly neglected or mistreated, the court may:

15 (a) Order immediate forfeiture of the animal to the agency that took
16 custody of the animal and authorize appropriate disposition of the animal
17 including adoption, donation to a suitable shelter, humane destruction,
18 or any other manner of disposition approved by the court. The court may
19 consider adoption alternatives through humane societies or comparable
20 institutions and the protection of such animal's welfare. For a humane
21 society or comparable institution to be considered as an adoption
22 alternative under this subsection, it must first be licensed by the
23 Department of Agriculture as having passed the inspection requirements in
24 the Commercial Dog and Cat Operator Inspection Act and paid the fee for
25 inspection under the act. The court may prohibit an adopting or
26 purchasing party from selling such animal for a period not to exceed one
27 year;

28 (b) Issue an order to the owner or custodian setting forth the
29 conditions under which custody of the animal shall be returned to the
30 owner or custodian from whom the animal was seized or to any other person
31 claiming an interest in the animal. Such order may include any management

1 actions deemed necessary and prudent by the court, including reducing the
2 number of animals harbored or owned by the owner or custodian by humane
3 destruction or forfeiture and securing necessary care, including
4 veterinary care, sufficient for the maintenance of any remaining animals;
5 or

6 (c) Order the owner or custodian from whom the animal was seized to
7 post a bond or other security or to otherwise order payment in an amount
8 that is sufficient to reimburse all reasonable expenses, as determined by
9 the court, for the care of the animal including veterinary care incurred
10 by the agency from the date of seizure and necessitated by the possession
11 of the animal. Payments shall be for a succeeding thirty-day period with
12 the first payment due on or before the tenth day following the hearing.
13 Payments for each subsequent thirty-day period, if any, shall be due on
14 or before the tenth day of such period. The bond or security shall be
15 placed with, or payments ordered under this subdivision shall be paid to,
16 the agency that took custody of the animal. The agency shall provide an
17 accounting of expenses to the court when the animal is no longer in the
18 custody of the agency or upon request by the court. The county attorney
19 of the county where the animal was seized may apply to the court for a
20 subsequent hearing under this section at any time. The hearing shall be
21 held as soon as practicable and not more than ten business days after the
22 date of application for the hearing unless otherwise determined and
23 ordered by the court. When all expenses covered by the bond or security
24 are exhausted and subsequent bond or security has not been posted, or if
25 a person becomes delinquent in his or her payments for the expenses of
26 the animal, the animal shall be forfeited to the agency.

27 (4) If custody of an animal is returned to the owner or custodian
28 prior to seizure, any proceeds of a bond or security or any payment or
29 portion of payment ordered under this section not used for the care of
30 the animal during the time the animal was held by the agency shall be
31 returned to the owner or custodian.

1 (5) Nothing in this section shall prevent the humane destruction of
2 a seized animal at any time as determined necessary by a licensed
3 veterinarian or as authorized by court order.

4 (6) An appeal may be filed within ten days after a hearing held
5 under this section. Any person filing an appeal shall post a bond or
6 security sufficient to pay reasonable costs of care of the animal for
7 thirty days. Such bond or surety shall be required for each succeeding
8 thirty-day period until the appeal is final.

9 (7) If the owner or custodian from whom the animal was seized is
10 found not guilty in an associated criminal proceeding, all funds paid for
11 the expenses of the animal remaining after the actual expenses incurred
12 by the agency have been paid shall be returned to the owner or custodian.

13 (8) This section shall not preempt any ordinance of a city of the
14 metropolitan or primary class.

15 **Sec. 4.** Section 28-1019, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 28-1019 (1)(a) If a person is convicted of a felony under section
18 28-1005 or 28-1009, the sentencing court shall order such person not to
19 own, possess, or reside with any animal for at least five years after the
20 date of conviction, but such time restriction shall not exceed fifteen
21 years. Any person violating such court order shall be guilty of a Class I
22 misdemeanor.

23 (b) If a person is convicted of a Class I misdemeanor under section
24 28-1005.01 or 28-1009 or a Class III misdemeanor under section 28-1010,
25 the sentencing court may order such person not to own, possess, or reside
26 with any animal after the date of conviction, but such time restriction,
27 if any, shall not exceed five years. Any person violating such court
28 order shall be guilty of a Class IV misdemeanor.

29 (c) Any animal involved in a violation of a court order under
30 subdivision (a) or (b) of this subsection shall be subject to seizure by
31 any law enforcement officer or animal control officer. Distribution or

1 disposition shall be made under section 28-1012.01.

2 (2) This section shall not apply to any person convicted under
3 section 28-1005, 28-1005.01, or 28-1009 if a licensed physician confirms
4 in writing that ownership or possession of or residence with an animal is
5 essential to the health of such person.

6 **Sec. 5.** Original sections 28-1008, 28-1012, 28-1012.01, and
7 28-1019, Revised Statutes Cumulative Supplement, 2024, are repealed.

8 **Sec. 6.** Since an emergency exists, this act takes effect when
9 passed and approved according to law.